

PATENT

Atty. Dkt. No. ATT-130AUS (2002-0477)

REMARKS

In view of the following discussion, the Applicants submit that none of the claims now pending in the application is anticipated under the provisions of 35 U.S.C. § 102. Thus, the Applicants believe that all of these claims are now in allowable form.

I. REJECTION OF CLAIMS 1-12 UNDER 35 U.S.C. § 102

The Examiner has rejected claims 1-12 in the Office Action under 35 U.S.C. § 102. The Examiner has rejected claims 1-12 as being anticipated by Baum et al. (US Patent Application Publication US2003/0211839, published November 13, 2003, herein referred to as Baum). Applicants respectfully traverse the rejection.

The Examiner uses Baum as a basis for all of the rejections in the Office Action under 35 U.S.C. § 102. However, Baum was filed on June 9, 2003. Applicants respectfully submit that Baum does not antedate Applicants' invention and priority date of February 11, 2003.

However, if the Examiner is relying on the fact that Baum claims priority to numerous provisional applications that were filed on various dates between January 8, 2002 to March 17, 2003, then the Examiner must apply one of the provisional applications as the prior art reference instead. Since a 111(a) application that claims priority to a provisional application does not have to recite the identical specification as that of the provisional application, the Examiner must provide *prima facie* evidence that the alleged teaching in the Baum reference has direct support in a single Baum provisional application.

Alternatively, if the Examiner is relying on the fact that Baum claims priority as a continuation-in-part to U.S. Patent Application Serial No. 10/337,106, filed on January 6, 2003, then the Examiner must apply the Baum '106 application as the prior art reference instead. Since a continuation-in-part application that claims priority to a parent application does not have to recite the identical specification as that of the parent application, the Examiner must provide *prima facie* evidence that the alleged teaching in the Baum reference has direct support in the Baum '106 application. Without such

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prima facie evidence, the Applicants respectfully submit that the Baum reference is not a proper prior art reference against Applicants' application.

Therefore, Baum is improper prior art cited against the Applicants' invention and cannot be used properly as a basis for the Examiner's rejections under 35 U.S.C. §102. As such, Applicants respectfully request the rejection of claims 1-12 be withdrawn.

Conclusion

Thus, the Applicants submit that all of these claims now fully satisfy the requirements for patentability. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of a final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,



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